

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

ADRIAN MICHAEL FLORES

PLAINTIFF

VS.

NO. 5:17-CV-05063-TLB

**COUNTY OF BENTON, ARKANSAS;
JAMES CHAMBERLIN; BALTHAZAR
MARTINEZ; ANDY J. LEE; DAVID
CORDEIRO; JAMES JOHNSON;
SCOTT SULLIVAN; et al.**

DEFENDANTS

ANSWER

Come now the Defendants, James Chamberlin, Balthazar Martinez, Andy J. Lee, and David Cordeiro, individually and in their official capacities and for their Answer to Plaintiff's Amended Complaint (Doc. 5), state the following:

1. Defendants lack sufficient information to form a belief as to the truthfulness of the allegations in paragraph 1 of the Amended Complaint and therefore deny same.
2. Defendants admit Benton County is a county formed under the laws of the State of Arkansas but deny the remaining allegations in paragraph 2 of the Amended Complaint.
3. Defendants admit the individuals identified in paragraphs 3, 4, 5, and 6 are or were employed by Benton County during the time of the events referred to in the Amended Complaint.
4. Defendants lack sufficient information to form a belief as to the truthfulness of the allegations in paragraph 7 of the Amended Complaint and therefore deny same.
5. Defendants deny the allegations contained in paragraph 8 of the Amended Complaint.
6. Defendants admit this Court has subject matter jurisdiction over the federal claims and that the Court can exercise supplemental jurisdiction over the state law claims, however, Defendants reserve the right to object to the Court exercising supplemental jurisdiction over any state law claims should the federal claims be dismissed.
7. Defendants admit the allegations contained in paragraph 10 of the Amended Complaint, subject to the reservation of rights and defenses noted in this Answer.

8. Defendants deny the allegations contained in paragraph 11 of the Amended Complaint.

9. Defendants admit there was an encounter between one or more of the Defendants and Plaintiff during the time referred to in the Amended Complaint. Defendants deny the remaining allegations contained in paragraph 12 of the Amended Complaint.

10. Defendants deny the allegations contained in paragraphs 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Amended Complaint.

11. Defendants admit Benton County Sheriff's Department provides training and equipment to the Defendants to use during the course and scope of their employment with Benton County. Defendants deny the remaining allegations contained in paragraph 24 of the Amended Complaint.

12. Defendants deny the allegations contained in paragraphs 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35 of the Amended Complaint.

13. Defendants admit Plaintiff has certain rights at the time of the alleged violations, but they deny the remaining allegations contained in paragraph 36 of the Amended Complaint.

14. Defendants deny the allegations contained in paragraphs 37, 38, 39, 40, 41, 42, 43, 44 and 45 of the Amended Complaint.

15. Defendants admit the specific individuals identified in paragraph 46 are or were employed by Benton County during the time of the events referred to in the Amended Complaint. Defendants lack sufficient information to form a belief concerning the allegations in paragraph 46 with respect to the "John and Jane Does", and therefore denies same.

16. Defendants deny the allegations contained in the "WHEREFORE" paragraph of the Amended Complaint.

17. Defendants deny each and every allegation of Plaintiff's Amended Complaint not specifically and expressly admitted herein.

18. Defendants assert and reserve the right to file an Amended Answer or other

responsive pleading(s) and/or to assert additional affirmative and other defenses after they have had a reasonable opportunity to investigate the claims and allegations in Plaintiff's Amended Complaint.

19. Defendants join Plaintiff's demand for a jury trial.

AFFIRMATIVE DEFENSES

20. Defendants assert the following affirmative defenses:

- A. All applicable immunities, including, but not limited to qualified immunity, tort /negligence immunity, statutory tort/negligence immunity, punitive damages immunity, and sovereign immunity;
- B. justification;
- C. mootness;
- D. failure of mitigation, as applicable;
- E. waiver/estoppel/laches;
- F. failure to state a claim upon which relief can be granted;
- G. statute of limitations;
- H. all applicable defenses under the Prison Litigation Reform Act (P.L.R.A), 42 U.S.C. § 1997e, including, but not limited to the requirement for proof of a physical injury, the exhaustion of administrative remedies requirement, and the limitations on attorneys' fees.

WHEREFORE, Defendants pray that the Amended Complaint be dismissed with prejudice and for any and all other just and proper relief to which they are entitled.

Respectfully submitted,

JAMES CHAMBERLIN; BALTHAZAR MARTINEZ;
ANDY J. LEE; DAVID CORDEIRO, et al.,

RAINWATER, HOLT & SEXTON, P.A.
P.O. Box 17250
Little Rock, Arkansas 72222-7250
Telephone (501) 868-2500
Telefax (501) 868-2505
email: davis@rainfirm.com

By: /s/ JaNan Arnold Davis
Michael R. Rainwater, #79234
JaNan Arnold Davis, #97043

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide notification of the same to the following CM/ECF user:

Mr. William Whitfield Hyman
King Law Group
300 N. 6th Street
Ft. Smith, AR 72901

Mr. Robert T. James
Arkansas Attorney General
323 Center Street
Little Rock, AR 72201

/s/ JaNan Arnold Davis
JaNan Arnold Davis
Attorney for Defendants
RAINWATER, HOLT & SEXTON, P.A.
P.O. Box 17250
Little Rock, Arkansas 72222-7250
Telephone (501) 868-2500
Telefax (501) 868-2505

6653.5612